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July 28, 2005

Time: 3:15 p.m.
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TO: Commissioner for Patents
Attn: Baisakhi Roy - GAU 3737
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FROM: David W. Black

OUR REF: 1133.029US1

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Document Transmitted: Comments on Examiner's Statement of Reasons for Allowance (2 pgs).

Total pages of this transmission, including cover letter: 2 pgs.

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In re. Patent Application of: Tony Yaksh et al.

Examiner: Baisakhi Roy

Serial No.: 09/765,063

Group Art Unit: 3737

Filed: January 17, 2001

Docket No.: 1133.029US1

Title: APPARATUS AND METHOD FOR DETECTING FLINCH RESPONSE TO NOCICEPTIVE AGENTS

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By: 

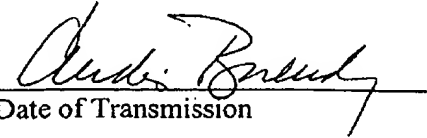
Name: David W. Black

Reg. No.: _____ Reg. No. 42,331

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S/N 09/765,063

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Tony Yaksh et al.	Examiner:	Baisakhi Roy
Serial No.:	09/765,063	Group Art Unit:	3737
Filed:	January 17, 2001	Docket:	1133.029US1
Title:	APPARATUS AND METHOD FOR DETECTING FLINCH RESPONSE TO NOCICEPTIVE AGENTS		

COMMENTS ON EXAMINER'S STATEMENT OF
REASONS FOR ALLOWANCE

MS ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant thanks Examiner Baisakhi Roy for the telephonic interview held on June 20, 2005.

The Examiner and Applicant's representative, David W. Black, agreed to amend claims 1, 2, 3, 4, 11 and 12 as noted in the Notice of Allowability mailed June 29, 2005, thereby placing the application in condition for allowance.

Page 3 of the Notice of Allowability dated June 29, 2005 states that the allowed claims are 1-12 and includes various assertions concerning aspects of the claims. Without acquiescing to the veracity of the various assertions, Applicant respectfully submits that the claims may be allowable for one or more reasons in addition to and/or in alternative to those reasons identified in the Notice of Allowability.

Applicant respectfully submits that the Examiner's statement of reasons for allowance may not be a faithful recitation or accurate paraphrase of the noted claims. For example, the claims do not explicitly refer to "an injected hind paw."

Additionally, the Notice of Allowability refers to "prior art," however Applicant does not make any admissions regarding the prior-art status of any document in the record of the application. Instead, Applicant regards such documents as only being "of record."

In particular, Applicant respectfully submits that the Notice of Allowability may be unclear and unduly limiting of the claimed subject matter. Among other things, the Notice of

COMMENTS ON EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

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Allowability appears to unnecessarily emphasize selected aspects of the claims in contrast to the precept that the claims are to be read as a whole.

Applicant respectfully asserts that the claims should speak for themselves, and that the scope of the claims should not be limited in any way by the Notice of Allowability. Applicant reserves the right to further address one or more aspects of the Notice of Allowability as may later be necessary or desirable.

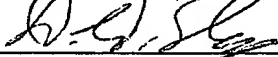
The Examiner is invited to telephone Applicant's attorney at (612) 373-6911 if there are any questions regarding this application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

TONY YAKSH ET AL.

By their Representatives,

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Date July 28, 2005 By 
David W Black
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The undersigned hereby certifies that this correspondence is transmitted by facsimile (FAX NO. 571-273-8300) to MS ISSUE FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 28th day of July, 2005.

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